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H.B. No. 1925

A BILL TO BE ENTITLED

1 AN ACT

2 relating to prohibitions on camping in a public place and to a  
3 political subdivision's designation of property for camping by  
4 homeless individuals; creating a criminal offense.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 48, Penal Code, is amended by adding  
7 Section 48.05 to read as follows:

8 Sec. 48.05. PROHIBITED CAMPING. (a) In this section:

9 (1) "Camp" means to reside temporarily in a place,  
10 with shelter.

11 (2) "Shelter" includes a tent, tarpaulin, lean-to,  
12 sleeping bag, bedroll, blankets, or any form of temporary,  
13 semipermanent, or permanent shelter, other than clothing or any  
14 handheld device, designed to protect a person from weather  
15 conditions that threaten personal health and safety.

16 (b) A person commits an offense if the person intentionally  
17 or knowingly camps in a public place without the effective consent  
18 of the officer or agency having the legal duty or authority to  
19 manage the public place.

20 (c) The actor's intent or knowledge may be established  
21 through evidence of activities associated with sustaining a living  
22 accommodation that are conducted in a public place, including:

23 (1) cooking;

24 (2) making a fire;

1           (3) storing personal belongings for an extended  
2 period;

3           (4) digging; or

4           (5) sleeping.

5           (d) Consent given by an officer or agency of a political  
6 subdivision is not effective for purposes of Subsection (b), unless  
7 given to authorize the person to camp for:

8           (1) recreational purposes;

9           (2) purposes of sheltering homeless individuals, if  
10 the property on which the camping occurs is subject to a plan  
11 approved under Subchapter PP, Chapter 2306, Government Code, and  
12 the camping occurs in a manner that complies with the plan;

13           (3) purposes permitted by a beach access plan that has  
14 been approved under Section 61.015, Natural Resources Code, and the  
15 camping occurs in a manner that complies with the plan; or

16           (4) purposes related to providing emergency shelter  
17 during a disaster declared under Section 418.014, Government Code,  
18 or a local disaster declared under Section 418.108 of that code.

19           (e) An offense under this section is a Class C misdemeanor.

20           (f) This section does not preempt an ordinance, order, rule,  
21 or other regulation adopted by a state agency or political  
22 subdivision relating to prohibiting camping in a public place or  
23 affect the authority of a state agency or political subdivision to  
24 adopt or enforce an ordinance, order, rule, or other regulation  
25 relating to prohibiting camping in a public place if the ordinance,  
26 order, rule, or other regulation:

27           (1) is compatible with and equal to or more stringent

1 than the offense prescribed by this section; or

2 (2) relates to an issue not specifically addressed by  
3 this section.

4 (g) Except as provided by Subsection (h), before or at the  
5 time a peace officer arrests or issues a citation to a person for an  
6 offense under this section, the peace officer must make a  
7 reasonable effort to:

8 (1) advise the person of an alternative place at which  
9 the person may lawfully camp; and

10 (2) contact, if reasonable and appropriate, an  
11 appropriate official of the political subdivision in which the  
12 public place is located, or an appropriate nonprofit organization  
13 operating within that political subdivision, and request the  
14 official or organization to provide the person with:

15 (A) information regarding the prevention of  
16 human trafficking; or

17 (B) any other services that would reduce the  
18 likelihood of the person suspected of committing the offense  
19 continuing to camp in the public place.

20 (h) Subsection (g) does not apply if the peace officer  
21 determines there is an imminent threat to the health or safety of  
22 any person to the extent that compliance with that subsection is  
23 impracticable.

24 (i) If the person is arrested or detained solely for an  
25 offense under this section, a peace officer enforcing this section  
26 shall ensure that all of the person's personal property not  
27 designated as contraband under other law is preserved by:

1           (1) permitting the person to remove all the property  
2 from the public place at the time of the person's departure; or

3           (2) taking custody of the property and allowing the  
4 person to retrieve the property after the person is released from  
5 custody.

6           (j) A fee may not be charged for the storage or release of  
7 property under Subsection (i)(2).

8           SECTION 2. Chapter 2306, Government Code, is amended by  
9 adding Subchapter PP to read as follows:

10       SUBCHAPTER PP. PROPERTY DESIGNATED BY POLITICAL SUBDIVISION FOR  
11                               CAMPING BY HOMELESS INDIVIDUALS

12           Sec. 2306.1121. DEFINITION. In this subchapter, "camp" has  
13 the meaning assigned by Section 48.05, Penal Code.

14           Sec. 2306.1122. APPROVAL REQUIRED. (a) A political  
15 subdivision may not designate a property to be used by homeless  
16 individuals to camp unless the department approves a plan described  
17 by Section 2306.1123(b).

18           (b) Not later than the 30th day after the date the  
19 department receives a plan submitted by a political subdivision  
20 under this subchapter, the department shall make a final  
21 determination regarding approval of the plan.

22           Sec. 2306.1123. PLAN REQUIREMENTS. (a) In this section,  
23 "proposed new campers" means homeless individuals the applicant  
24 intends to allow to camp at the property.

25           (b) A plan required by Section 2306.1122 must describe each  
26 of the following with respect to a proposed property:

27           (1) the availability of local health care for proposed

1 new campers, including access to Medicaid services and mental  
2 health services;

3 (2) the availability of indigent services for proposed  
4 new campers;

5 (3) the availability of reasonably affordable public  
6 transportation for proposed new campers;

7 (4) local law enforcement resources in the area; and

8 (5) the steps the applicant has taken to coordinate  
9 with the local mental health authority to provide for any proposed  
10 new campers.

11 (c) An applicant shall respond to reasonable requests for  
12 additional information made by the department regarding the  
13 proposed property or plan.

14 SECTION 3. Subtitle C, Title 11, Local Government Code, is  
15 amended by adding Chapter 364 to read as follows:

16 CHAPTER 364. ENFORCEMENT OF PUBLIC CAMPING BANS

17 Sec. 364.001. DEFINITIONS. In this chapter:

18 (1) "Local entity" means:

19 (A) the governing body of a municipality or  
20 county;

21 (B) an officer or employee of or a division,  
22 department, or other body that is part of a municipality or county,  
23 including a sheriff, municipal police department, municipal  
24 attorney, or county attorney; and

25 (C) a district attorney or criminal district  
26 attorney.

27 (2) "Policy" includes a formal, written rule,

1 ordinance, order, or policy and an informal, unwritten policy.

2 (3) "Public camping ban" means a law, rule, ordinance,  
3 order, or other regulation that prohibits camping in a public  
4 place, including Section 48.05, Penal Code.

5 Sec. 364.002. POLICY ON CAMPING BANS. (a) A local entity  
6 may not adopt or enforce a policy under which the entity prohibits  
7 or discourages the enforcement of any public camping ban.

8 (b) In compliance with Subsection (a), a local entity may  
9 not prohibit or discourage a peace officer or prosecuting attorney  
10 who is employed by or otherwise under the direction or control of  
11 the entity from enforcing a public camping ban.

12 (c) This section does not prohibit a policy that encourages  
13 diversion or a provision of services in lieu of citation or arrest.

14 Sec. 364.003. INJUNCTIVE RELIEF. (a) The attorney general  
15 may bring an action in a district court in Travis County or in a  
16 county in which the principal office of the entity is located to  
17 enjoin a violation of Section 364.002.

18 (b) The attorney general may recover reasonable expenses  
19 incurred in obtaining relief under this section, including court  
20 costs, reasonable attorney's fees, investigative costs, witness  
21 fees, and deposition costs.

22 Sec. 364.004. DENIAL OF STATE GRANT FUNDS. (a) A local  
23 entity may not receive state grant funds, and state grant funds for  
24 the local entity shall be denied, for the state fiscal year  
25 following the year in which a final judicial determination in an  
26 action brought under Section 364.003 is made that the entity has  
27 intentionally violated Section 364.002.

1        (b) The comptroller shall adopt rules to implement this  
2 section uniformly among the state agencies from which state grant  
3 funds are distributed to a municipality or county.

4        (c) A local entity that has not violated Section 364.002 may  
5 not be denied state grant funds, regardless of whether the entity is  
6 a part of another entity that is in violation of that section.

7        SECTION 4. Subchapter PP, Chapter 2306, Government Code, as  
8 added by this Act, applies only to the designation and use of  
9 property described by that subchapter that first begins on or after  
10 the effective date of this Act. The designation and use of property  
11 described by Subchapter PP, Chapter 2306, Government Code, as added  
12 by this Act, that first began before the effective date of this Act  
13 is governed by the law in effect when the designation and use first  
14 began, and the former law is continued in effect for that purpose.

15        SECTION 5. This Act takes effect September 1, 2021.